IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

WEDNESDAY, THE 21ST FEBRUARY 2007 / 2ND PHALGUNA 1928

W.P.(C).No.25692 of 2006(H)

PETITIONER:-

THURAKKAL MOIDEENKUTTY, S/O. KUNHIPOKER,
THURAKKAL HOUSE, MELMURI, KADAMPUZHA P.O.,
MALAPPURAM DISTRICT.

BY ADV. SRI.P.CHANDRASEKHAR

RESPONDENT:-

KOTTAKKAL CO-OP.URBAN BANK LTD.,
NO.1378, KOTTAPPADI, KOTTAKKAL,
MALAPPURAM DISTRICT, REPRESENTED BY ITS
GENERAL SECRETARY.

BY ADV. SRI.DEVAPRASANTH.P.J.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 21/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:-

APPENDIX

PETITIONER'S EXHIBITS:-

EXT.P1 - TRUE PHOTO COPY OF NOTICE NO.KCUB/KAD/48/2006 DATED 20.06.2006 ISSUED BY THE RESPONDENT.

EXT.P2 - TRUE PHOTO COPY OF THE NOTICE DATED 19.09.2006 OF THE RESPONDENT.

- TRUE COPY -

K.Padmanabhan Nair,J.

W.P.(C).No.25692 of 2006-H

Dated, this the 21st day of February, 2007

JUDGMENT

The petitioner availed a loan of Rs.10,00,000/- from the respondent-Bank. He committed default in repayment. So, the Bank issued a notice under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. Challenging that notice, this writ petition is filed.

2. The party who is served with a notice under Section 13(2) of the Act is given liberty to make representations before the Authorised Officer. But, an order passed under Section 13(2) cannot be challenged before any forum. Since a final order is passed under Section 13(4), which is an appealable order before the Debts Recovery Tribunal, I do not find any reason to interfere with that order. But still, I am of the view that if the petitioner is prepared to repay the loan, he can be given a reasonable time to pay off the amount due to the Bank.

In the result, the writ petition is disposed of in the following manner: If the petitioner makes an application within 10 days from today, the Bank shall serve a statement of accounts due as on that date within five days of receipt of that request. The petitioner shall deposit 20% of the amount so claimed by the Bank within six weeks and shall file an application claiming the benefits of One Time Settlement, if any, applicable to the Bank. If the petitioner makes the deposit and files the application, the Bank shall not levy any penal interest. The Bank shall give reduction in the rate of interest applicable also and allow the petitioner to pay off the amount in six monthly instalments. The steps taken by the Bank for the sale of the properties shall stand adjourned for a period of two months from today. If the petitioner commits default in any of the conditions, it is open to the Bank to proceed with the action already initiated.

K.Padmanabhan Nair
Judge

vku/-